

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2005 DEC 22 PM 1:01

MASSACHUSETTS EYE & EAR
INFIRMARY

Plaintiff,

v.

EUGENE B. CASEY FOUNDATION
and THOMAS F. REILLY, as he is the
Attorney General of The
Commonwealth of Massachusetts,

Defendants.

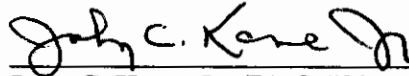
Case No. 1:05-cv-11229-NMG

U.S. DISTRICT COURT
DISTRICT OF MASS.

**MOTION OF PLAINTIFF MASSACHUSETTS EYE & EAR INFIRMARY
FOR LEAVE TO FILE SUPPLEMENTAL OPPOSITION**

The Plaintiff Massachusetts Eye & Ear Infirmary ("MEEI") moves for leave to file the attached Supplemental Opposition to Defendant's Motion to Dismiss, which Motion to Dismiss is pending before this court. As grounds for this Motion, and as appears more fully in the attached Supplemental Opposition, discovery has established that two fundamental factual representations made by Defendant in support of its motion—that Dr. Zeitels has moved a Voice Restoration Research Program from MEEI to the Institute of Laryngology and Voice Restoration, and that Defendant Foundation has paid monies to the Institute of Laryngology and Voice Restoration to "do" a Voice Restoration Research Program-- are false. The Supplemental Opposition therefore is necessary to correct misinformation presented to the Court by the Defendant Foundation in connection with the pending Motion to Dismiss. A proposed Order Granting Leave to File Supplemental Opposition is filed herewith.

MASSACHUSETTS EYE & EAR INFIRMARY
By its attorneys,



John C. Kane, Jr. (BBO #257480)

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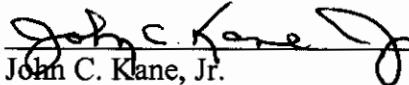
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Dated: December 22, 2005

Certificate of Compliance With Local Rule 7.1

I certify that I have conferred with counsel for Defendant on the above-captioned matter and have attempted in good faith to resolve or narrow the issues raised by this Motion.



John C. Kane, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail/~~by hand~~.

Date: 12/23/05 